

DECISION



119540
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

Morris

FILE: B-208848.5

DATE: September 23, 1982

MATTER OF: Mica Inc.

DIGEST:

A protest that award should not be made to a bidder because its key employees defaulted on previous contracts involves the firm's responsibility. GAO does not review affirmative determinations of responsibility unless there has been either a showing of fraud on the part of procurement officials or an allegation that the solicitation contains definitive responsibility criteria that have not been applied.

Mica Inc. protests any contract award to Ebsco Sales under invitation for bids No. FNP-F3-1243A issued by the General Services Administration. Mica contends that Ebsco should not be considered eligible for contract award because its key employees allegedly have defaulted on previous contracts.

Mica's protest relates to Ebsco's responsibility as a prospective contractor. See Proper Manufacturing Company, Inc., B-206193, February 3, 1982, 82-1 CPD 86. Before a contract award is made to Ebsco, the contracting officer must first make an affirmative determination that the firm is responsible. Federal Procurement Regulations § 1-1.1204-1 (1964 ed. amend 95). In light of the essentially subjective business judgments involved, such a determination will not be reviewed by this Office unless there is a showing of fraud on the part of procurement officials or an allegation of failure to apply definitive responsibility criteria. D&J Maintenance Company, Inc., B-206758, March 25, 1982, 82-1 CPD 286. Since Mica does not contend that either exception is applicable here, we will not consider its allegation.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel